

GIBSON, DUNN & CRUTCHER LLP
CHRISTOPHER CHORBA, Cal. Bar
No. 216692
cchorba@gibsondunn.com
LAUREN M. BLAS, Cal. Bar
No. 296823
lblas@gibsondunn.com
JEREMY S. SMITH, Cal. Bar
No. 183010
jssmith@gibsondunn.com
SEAN HOWELL, Cal. Bar No. 315967
showell@gibsondunn.com
333 South Grand Avenue
Los Angeles, CA 90071
Telephone: 213.229.7000

SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP
MOE KESHAVARZI, Cal. Bar
No. 223759
mkeshavarzi@sheppardmullin.com
350 South Grand Avenue
Los Angeles, CA 90071
Telephone: 213.620.1780

BENJAMIN D. BROOKS, Cal. Bar
No. 314373
bbrooks@sheppardmullin.com
501 West Broadway
San Diego, CA 92101
Telephone: 619.338.6500

Counsel for Defendant Penney OpCo LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JORDAN KRANTZ, MARJANIQUE
ROBINSON, and ARIANA
SKURAUSKIS,

Plaintiffs,

v.

OLD COPPER COMPANY, INC. f/k/a
J.C. PENNEY COMPANY, INC., and
PENNEY OPCO LLC, d/b/a
JCPENNEY,

Defendants.

Case No. 2:24-CV-10031-SPG-KS

**JCPENNEY'S MOTION TO
DISMISS PLAINTIFFS' SECOND
AMENDED COMPLAINT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Hearing

Date: January 7, 2026

Time: 1:30 p.m.

Courtroom: 5C

Judge: Hon. Sherilyn Peace Garnett

NOTICE OF MOTION AND MOTION TO DISMISS

TO THE COURT AND ALL PARTIES AND COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT, on January 7, 2026, or as soon thereafter as the matter may be heard by the Honorable Sherilyn Peace Garnett, in the United States District Court for the Central District of California, First Street Courthouse, Courtroom 5C, 350 West 1st Street, Los Angeles, CA 90012, Defendant Penney Opco LLC (“JCPenney”) will and hereby does move this Court under Rule 12(b)(6) of the Federal Rules of Civil Procedure for an order dismissing Plaintiffs’ claims for unjust enrichment (Count III of the Second Amended Complaint), for violation of California’s False Advertising Law and Unfair Competition Law (Counts V, VI, and VII), and for equitable relief. The Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, and on such other written and oral arguments as may be presented to the Court.

Pursuant to Local Rule 7-3 and this Court’s Standing Order, the parties thoroughly discussed the substance and potential resolution of the filed motion by videoconference, and were unable to resolve their dispute.

Dated: November 17, 2025

Respectfully Submitted,

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Christopher Chorba
Christopher Chorba

Counsel for Defendant Penney OpCo LLC

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MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

Plaintiffs’ Second Amended Complaint has not remedied the deficiencies the Court previously identified in their claims for unjust enrichment and for equitable relief under the Unfair Competition Law (“UCL”), False Advertising Law (“FAL”) and Consumers Legal Remedies Act (“CLRA”). Those are the only claims the Court dismissed that Plaintiffs have attempted to amend; they have chosen not to amend and replead their claim for negligent misrepresentation. Their amendments have not made their claims any more plausible, because they still do not allege that their contract with Penney Opco LLC (“JCPenney”) was unenforceable, and still do not plausibly allege that they lack an adequate remedy at law.

The Court previously dismissed Plaintiffs’ claim for unjust enrichment on the ground that Plaintiffs “allege[d] the existence of an express contract covering the same subject matter as the unjust enrichment claim” but did not “plead[] facts suggesting that the contract may be unenforceable or invalid.” Dkt. 53 at 21. The only revision Plaintiffs made to the unjust enrichment claim in the Second Amended Complaint was to add an allegation that Plaintiffs’ “sales contracts may be deemed invalid or unenforceable as contrary to public policy or based on a lack of consideration.” Dkt. 54 (SAC) ¶ 149. That assertion is little more than a legal conclusion; nothing in the Second Amended Complaint explains how or why the express contracts would be invalid or unenforceable. Plaintiffs do not explain why the contracts—which govern ordinary transactions for goods—would be deemed “contrary to public policy” or lack consideration. Numerous courts have rejected similar attempts to pursue unjust-enrichment claims when plaintiffs do not disavow the existence of an express contract or at least offer some factual basis to explain why the contract at issue might be invalid. The Court should do the same here.

The Court also dismissed Plaintiffs’ claims for equitable relief (sought under the UCL, FAL, and CLRA) on the ground that they did not “allege that legal remedies would

1 be inadequate.” Dkt. 53 at 15. Plaintiffs have amended their complaint with rote
2 allegations claiming they believe legal remedies are inadequate, but they still have not
3 *plausibly* alleged any facts showing why that would be. The gravamen of Plaintiffs’
4 complaint is that they overpaid for certain JCPenney products. They do not allege they
5 lack legal remedies for that alleged injury, and in fact they bring claims—including a
6 breach of contract claim—that would entitle them to legal remedies if they were
7 successful. Courts have repeatedly held that damages would not be inadequate where a
8 given claim for damages is predicated on the same conduct as a claim for equitable relief.
9 That is exactly the case here. Plaintiffs allege that they would *prefer* equitable remedies
10 to legal ones, but that is not the same as alleging that legal remedies are *inadequate*.
11 Specifically, they allege that they would prefer disgorgement to other measures of
12 damages, but the claims under which they seek equitable relief do not allow a plaintiff
13 to recover non-restitutionary disgorgement. To the extent Plaintiffs allege that legal
14 remedies are inadequate because they also seek changes to JCPenney’s pricing practices,
15 they have not plausibly alleged that they are entitled to that relief. Accordingly, the
16 Court should dismiss Plaintiffs’ UCL and FAL claims, because equitable relief is all that
17 is available to Plaintiffs under those statutes. The Court should also dismiss Plaintiffs’
18 claim for equitable relief under the CLRA.

19 In attempting to plead around the Court’s dismissal of their claims for unjust
20 enrichment and equitable relief, Plaintiffs have merely added conclusory allegations,
21 rather than alleging additional facts suggesting an entitlement to relief. Because it is
22 apparent that there is no set of facts under which Plaintiffs could prevail on those claims,
23 the Court should dismiss them without further leave to amend.

24 **SUMMARY OF ALLEGED FACTS AND PROCEDURAL HISTORY**

25 Plaintiffs Jordan Krantz, Marjanique Robinson, and Ariana Skurauskis allege they
26 are California citizens who purchased discounted products from JCPenney’s website.
27 SAC ¶¶ 17–19, 69–70, 79, 88. Plaintiffs do not allege that the products were worth less
28 than what they paid, but they nevertheless claim to have been harmed because—

1 according to Plaintiffs—the products were usually or always offered for sale at a
2 discount. *Id.* ¶¶ 72–73, 81–85, 90–96. They assert claims for fraud, breach of contract,
3 and unjust enrichment, and for violations of the CLRA, FAL, and UCL. At the core of
4 each claim is the allegation that they were misled by JCPenney’s price advertising. *Id.*
5 ¶¶ 129–34, 141–46, 151–57, 169–76, 188–93, 201–06, 211–22.

6 JCPenney moved to dismiss Plaintiffs’ claims in February 2025, and Plaintiffs
7 amended their complaint instead of opposing the motion. *See* Dkts. 33, 37. JCPenney
8 again moved to dismiss, and in August 2025, the Court granted the motion in part and
9 denied it in part. The Court held that most of Skurauskis’s claims were time-barred and
10 dismissed all but one of her claims (for breach of contract) without leave to amend.
11 Dkt. 53 at 6–9. The Court also dismissed Plaintiffs’ claim under section 1770(a)(7) of
12 the CLRA without leave to amend, reasoning that Plaintiffs “did not provide the requisite
13 pre-suit notice” as to that claim. *Id.* at 18 & n.2. The Court also struck Plaintiffs’
14 nationwide class allegations as to every claim except for breach of contract. *Id.* at 27.

15 The Court granted JCPenney’s motion to dismiss Plaintiffs’ claims for unjust
16 enrichment, negligent misrepresentation, and equitable relief with leave to amend. Dkt.
17 53 at 15–16, 18–19, 21–22. With respect to Plaintiffs’ unjust-enrichment claim, the
18 Court held that, because Plaintiffs alleged that JCPenney breached express sales
19 contracts, Plaintiffs could not pursue unjust enrichment claims unless they also pleaded
20 “facts suggesting that the contract may be unenforceable or invalid.” Dkt. 53 at 21
21 (quoting *Tsai v. Wang*, 2017 WL 2587929, at *8 (N.D. Cal. June 14, 2017)). The Court
22 also reasoned that Plaintiffs could not pursue equitable claims under the UCL, CLRA,
23 or FAL because they “d[id] not allege that legal remedies would be inadequate.” *Id.* at
24 15–16. The Court denied JCPenney’s motion to dismiss Plaintiffs’ claims for fraud,
25 breach of contract, and violation of sections 1770(a)(5), 1770(a)(9), and 1770(a)(13) of
26 the CLRA, to the extent Plaintiffs sought legal relief.

27 In the Second Amended Complaint, Plaintiffs chose not to replead their claim for
28 negligent misrepresentation, but amended their unjust-enrichment claim and their claims

1 for equitable relief under the UCL and FAL. Plaintiffs have attempted to remedy the
2 deficiency the Court identified in their claim for unjust enrichment by adding the
3 following allegation: “The terms of Plaintiffs’ and Class Members’ sales contracts may
4 be deemed invalid or unenforceable as contrary to public policy or based on a lack of
5 consideration.” SAC ¶ 149. In support of their claims for equitable relief, Plaintiffs
6 have added a list of reasons why their legal remedy is supposedly inadequate.
7 Specifically, they allege that “[e]quitable remedies are more prompt, certain, and
8 efficient than equitable [sic, presumably “legal”] relief”; that “the scope of recovery
9 under equitable relief may be more significant than the scope of legal damages”; that the
10 equitable remedy of disgorgement is “more certain and less complex and costly than the
11 measurement for legal damages,” permits recovery of interest, and will “serve[] as a
12 deterrent for future unlawful conduct”; and that injunctive relief will allow Plaintiffs to
13 “know whether the advertised prices for JC Penney products are authentic . . . should
14 they wise [sic, presumably “wish”] to purchase such products in the future.” SAC
15 ¶¶ 184, 197, 207, 228.

16 LEGAL STANDARD

17 To withstand a motion to dismiss under Rule 12(b)(6), a complaint must “contain
18 sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on
19 its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v.*
20 *Twombly*, 550 U.S. 544, 570 (2007)). Legal conclusions need not be taken as true merely
21 because they are couched as factual allegations. *Twombly*, 550 U.S. at 555. After
22 stripping away the “conclusory statements” in the complaint, the Court must rely on its
23 “judicial experience and common sense” to determine whether the remaining factual
24 allegations “allow[] the court to draw the reasonable inference that the defendant is liable
25 for the misconduct alleged.” *Iqbal*, 556 U.S. at 678–79.

26 ARGUMENT

27 Plaintiffs’ amendments and additional allegations do not cure the deficiencies the
28 Court identified in their prior pleading. As the Court explained, a plaintiff *may* be able

1 to pursue unjust-enrichment and breach of contract claims in the alternative, but only if
2 the plaintiff alleges *facts* suggesting that a contract may be found unenforceable or
3 invalid. Dkt. 53 at 21. Plaintiffs have offered no such facts here. Likewise, a plaintiff
4 *may* be able to pursue equitable claims, but only if the plaintiff alleges facts to
5 demonstrate why legal remedies are inadequate. Plaintiffs have not done that, either.
6 Accordingly, the Court should dismiss Plaintiffs’ unjust-enrichment claim and their
7 claims for equitable relief without leave to amend.

8 **I. Plaintiffs have not alleged that their sales contracts are unenforceable or**
9 **invalid.**

10 As this Court explained in dismissing Plaintiffs’ unjust-enrichment claim, a
11 plaintiff may pursue both breach-of-contract claims and unjust-enrichment claims only
12 if she “also pleads facts suggesting that the contract may be unenforceable or invalid.”
13 Dkt. 53 at 21 (quoting *Tsui v. Wang*, 2017 WL 2587929, at *8 (N.D. Cal. June 14,
14 2017)). That requires plaintiffs to do more than merely state that a contract might be
15 unenforceable: they must also “explain[] why” they believe their express contract claims
16 are unviable. *Vizcarra v. Michaels Stores, Inc.*, 710 F. Supp. 3d 718, 732 (N.D. Cal.
17 2024). Courts routinely dismiss claims for unjust enrichment where the plaintiff does
18 not allege why his or her contract with the defendant is unenforceable. For example:

- 19 • In *Vizcarra*, the plaintiff alleged that a retail store breached sales agreements
20 related to discounted products because the products were usually or always
21 discounted. 710 F. Supp. 3d at 732. She sought to pursue unjust enrichment
22 claims in the alternative to her express contract claims, but the court dismissed
23 her unjust enrichment claims because she did not “explain[] why the facts she
24 has alleged could render” the sales contracts “unenforceable.” *Id.*
- 25 • In *Crowder v. Shade Shore, LLC*, 2024 WL 4868313 (N.D. Cal. June 26,
26 2024), the plaintiffs asserted both express contract claims and unjust-
27 enrichment claims against a retailer on the ground that the retailer’s
28 representation of “regular” prices was false because it always sold those

1 products at a discount. *Id.* at *1, *9. The plaintiffs asserted that they had “pled
2 facts suggesting that” their express sales contracts with the retailer were
3 “voidable and therefore, unenforceable.” *Id.* at *9 (internal quotation marks
4 omitted). But the court held that this was not enough to give rise to an unjust-
5 enrichment claim because the plaintiffs “[did] not allege that their contracts
6 with [d]efendant [were] unenforceable or invalid.” *Id.*

- 7 • In *Kirkeby v. JP Morgan Chase Bank, N.A.*, 2014 WL 4364836 (S.D. Cal. Sept.
8 3, 2024), the plaintiff alleged that a bank had been unjustly enriched by
9 fraudulent loan practices related to a mortgage agreement. *Id.* at *2, *7. But
10 the court held that the plaintiff “pled no facts to support” the assertion that the
11 mortgage agreement was unenforceable, and thus “failed to state a plausible
12 unjust enrichment claim.” *Id.* at *7.

13 Plaintiffs’ unjust-enrichment claim suffers from the same deficiencies. The
14 Second Amended Complaint contains just one new allegation in support of that claim:
15 namely, that their sales contracts “may be deemed unenforceable as contrary to public
16 policy or based on a lack of consideration.” SAC ¶ 149. That statement is not even a
17 factual allegation—it is a “threadbare recital[]” of the law, copied directly from this
18 Court’s dismissal order. *Iqbal*, 556 U.S. at 66; *see also* Dkt. 53 at 21–22. What is
19 needed are facts “suggesting that the contract[s] may be unenforceable or invalid.” *Tsui*,
20 2017 WL 2587929, at *8.

21 But Plaintiffs do not offer any: they do not allege that their agreements to
22 purchase products from JCPenney lacked consideration, and do not identify any public
23 policy those agreements might violate. To the contrary, their only factual allegations
24 suggest that those agreements *are* valid: they allege they formed a contract with
25 JCPenney when they “accept[ed]” JCPenney’s offer to sell them products by paying for
26 them. SAC ¶¶ 142–46. In other words, they have alleged that they entered into a routine
27 sales agreement with JCPenney. Because Plaintiffs have not pleaded that their
28 agreements to purchase products from JCPenney are unenforceable—and indeed, have

1 affirmatively pleaded the opposite—the Court should dismiss their unjust-enrichment
2 claim, this time without leave to amend. *See Johnson v. Cty. of Los Angeles*, No. 2:22-
3 CV-04968-SPG-GJS, 2023 WL 5505004, at *4 (C.D. Cal. Apr. 19, 2023) (“[D]istrict
4 courts have broad discretion to deny leave to amend where there is repeated failure to
5 cure previously identified deficiencies.”).

6 **II. Plaintiffs have not plausibly alleged that legal remedies are inadequate.**

7 The Court should also dismiss Plaintiffs’ claims for equitable relief under the
8 UCL and FAL. Because Plaintiffs’ claims for equitable relief are premised on the same
9 conduct as their claims for damages, they have no plausible basis to argue that they lack
10 an adequate remedy at law. They have added several allegations to try to get around this
11 well-established rule, but those allegations do not suggest that they are entitled to
12 equitable relief.

13 **A. Plaintiffs’ claims for equitable relief are premised on the same**
14 **conduct as their claims for damages.**

15 In federal court, a plaintiff “must establish that she lacks an adequate remedy at
16 law before securing equitable restitution for past harm.” *Sonner v. Premier Nutrition*
17 *Corp.*, 971 F.3d 834, 844 (9th Cir. 2020). Courts have repeatedly held that, when a
18 plaintiff’s “claim for damages” is “predicated on the same conduct as his claims for
19 equitable relief,” damages would not be inadequate. *Ibarra v. Pharmagenics LLC*, 660
20 F. Supp. 3d 914, 922 (C.D. Cal. 2023); *see also Rodriguez v. FCA US LLC*, 2023 WL
21 3150075, at *5 (C.D. Cal. Mar. 21, 2023) (similar). For instance:

- 22 • In *Ibarra*, a plaintiff sought money damages and equitable remedies under the
23 CLRA, as well as equitable remedies under the UCL and FAL, based on the
24 defendant’s allegedly misleading advertising practices. 660 F. Supp. 3d at 919.
25 Because the claims for damages under the CLRA were “predicated on the same
26 conduct as [the plaintiff’s] claims for equitable relief,” the court dismissed the
27 equitable-relief claims, noting that the plaintiff’s attempt to seek both equitable
28 and legal remedies under the same statute—the CLRA—for the “same

conduct” “undermine[d] any potential inadequacy of legal remedies.” *Id.* at 922.

- In *Nguyen v. Lovesac Co.*, 2025 WL 950511 (E.D. Cal. Mar. 28, 2025), the plaintiff brought UCL, CLRA, FAL, fraud, and unjust-enrichment claims based on the defendant’s “allegedly unlawful marketing, sales, and pricing” activities. *Id.* at *1–2. The plaintiff alleged—as Plaintiffs do here—that equitable remedies would be more “certain,” “efficient,” and favorable than money damages, but the court dismissed the plaintiff’s equitable claims because “the test for equitable jurisdiction is whether an adequate damages remedy is available, not whether the plaintiff elects to pursue it, or whether she will be successful in that pursuit.” *Id.* at *7.
- In *Williams v. Apple, Inc.*, 2020 WL 6743911 (N.D. Cal. Nov. 17, 2020), the plaintiffs brought breach-of-contract, UCL, FAL, and CLRA claims challenging the defendant’s allegedly false representations about the way it stored consumers’ data. *Id.* at *1–2. The district court dismissed the plaintiffs’ UCL and FAL claims because those claims were “based on the same factual predicate” as the plaintiffs’ “breach of contract claim for money damages,” and the plaintiffs were therefore not entitled to equitable relief. *Id.* at *9–10.
- In *Rodriguez*, a plaintiff sought damages and equitable relief from a car manufacturer based on defects that allegedly caused vehicles to violate California emissions standards. 2023 WL 31500575, at *1. The court dismissed the plaintiff’s equitable claims, concluding that “the gravamen of [p]laintiff’s” complaint was “that he sought reimbursement for costs he incurred in repairing his vehicle,” and “that claim for relief is routinely addressed through legal remedies.” *Id.* at *4.

This case fits the same pattern. Plaintiffs claim they overpaid for products and seek reimbursement for those alleged overpayments. Whether or not they ultimately prevail, the pleaded facts make clear the gravamen of Plaintiffs’ claims is for money

1 damages, which is quintessential legal relief. *See Guzman v. Polaris Industries, Inc.*, 49
2 F.4th 1308, 1313 (9th Cir. 2022) (“*Sonner*’s holding applies to equitable” claims so long
3 as “there is a viable” damages claim, “regardless of whether” the plaintiff will actually
4 recover damages). And in fact, Plaintiffs bring claims for money damages. SAC
5 ¶¶ 147, 183. Because “monetary damages provide an adequate remedy” for Plaintiffs’
6 overpayment claims, “a federal court may not consider the merits of equitable claims for
7 restitution, disgorgement, or injunctive relief.” *Prescott v. Saraya USA, Inc.*, 2025 WL
8 1361486, at *5 (C.D. Cal. May 9, 2025).

9 **B. Plaintiffs’ additional allegations about the inadequacy of damages do**
10 **not suggest that they are entitled to equitable relief.**

11 The Second Amended Complaint includes allegations about the supposed
12 inadequacy of legal remedies, but these new allegations do not change the fact that
13 Plaintiffs have an adequate remedy at law. They allege that their “legal remedy is
14 [inadequate]” for three reasons: (1) “[e]quitable remedies are more prompt, certain, and
15 efficient than [legal] relief,” and “the scope of recovery under equitable relief may be
16 more significant than the scope of legal damages”; (2) the equitable remedy of
17 disgorgement is “more certain and less complex and costly than the measurement for
18 legal damages,” permits recovery of interest, and will “serve[] as a deterrent for future
19 unlawful conduct”; and (3) injunctive relief will allow Plaintiffs to “know whether the
20 advertised prices for JCPenney products are authentic . . . should they wis[h] to purchase
21 such products in the future.” SAC ¶¶ 184, 197, 207, 228. None of these allegations
22 suggests that Plaintiffs lack an adequate remedy at law. That they would *prefer* an
23 equitable remedy to a legal one does not mean their legal remedies are inadequate;
24 disgorgement is not available for any of Plaintiffs’ claims; and courts have repeatedly
25 found an assertion of a potential desire to purchase products in the future too speculative
26 to warrant injunctive relief.

27 *First*, Plaintiffs assert that equitable remedies are generally broader than legal
28 remedies. SAC ¶¶ 184, 197, 207, 228. But Plaintiffs’ mere preference for an equitable

1 remedy is not enough to establish an entitlement to one—they must instead plead that
2 their legal remedies “are insufficient to make them whole.” *Ibarra*, 660 F. Supp. 3d at
3 922. In fact, courts hold that legal remedies are adequate even when a plaintiff foregoes
4 a legal remedy and pursues equitable remedies instead based on a preference for the
5 latter. For instance, in *Guzman*, the plaintiff pursued only equitable remedies for her
6 false advertising claims, reasoning that those remedies would allow for greater recovery.
7 49 F.4th at 1312. The Ninth Circuit held that she was not entitled to equitable remedies
8 because what matters is whether a legal remedy is viable, not whether a plaintiff prefers
9 an equitable remedy to a legal one. *Id.* at 1313. There is no question that, here, Plaintiffs
10 seek to recover damages based on JCPenney’s alleged breaches of contract and allegedly
11 fraudulent or misleading pricing schemes, and that Plaintiffs’ equitable claims are based
12 on the same allegedly deceptive conduct as their claims for legal relief. Plaintiffs’
13 “preference to maximize their recovery” by seeking equitable relief does not entitle them
14 to do so. *Ketayi v. Health Enrollment Grp.*, 2021 WL 2864481, at *10 (S.D. Cal. July
15 8, 2021) (internal quotation marks omitted).

16 *Second*, Plaintiffs assert that legal relief is inadequate because they seek non-
17 restitutionary disgorgement as a remedy, and that disgorgement is only available for
18 their equitable claims. SAC ¶¶ 184, 197, 207, 228. There are two problems with this
19 argument. First, the fact that Plaintiffs have expressed a preference for disgorgement in
20 particular does not mean they are entitled to it, because the question again is whether
21 legal relief is available for the same alleged harm, not whether equitable and legal
22 remedies differ. “[A]n alleged difference in the amounts Plaintiff may seek as damages
23 and restitution does not make damages inadequate.” *Nguyen*, 2025 WL 950511, at *7.
24 Second, disgorgement is not available to Plaintiffs as an equitable remedy in any event,
25 because “nonrestitutionary disgorgement is not available under the UCL,” the CLRA, or
26 the FAL. *In re Cal. Gasoline Spot Market Antitrust Litig.*, 2021 WL 1176645, at *8
27 (N.D. Cal. Mar. 29, 2021); *Vasic v. PatentHealth, LLC*, 171 F. Supp. 3d 1034, 1041
28 (S.D. Cal. 2016).

1 *Third*, Plaintiffs suggest that legal relief is inadequate because they “continue[] to
2 be interested in purchasing jewelry, clothing, and products that are available for purchase
3 at [JCPenney] and offered at discounted prices,” but they “cannot know whether
4 [JCPenney’s] former and regular prices represent honest prices at which the products
5 were listed for sale.” SAC ¶¶ 87, 97–98; *see also id.* ¶ 78. According to Plaintiffs,
6 obtaining an injunction requiring JCPenney to price its products in a certain way will
7 enable them to “know whether the advertised prices for JC Penney products are authentic
8 . . . should they wis[h] to purchase such products in the future.” *Id.* ¶¶ 184, 197, 207,
9 228. But these allegations are too speculative to give rise to a claim for injunctive relief.
10 Courts require more certainty. In *Ketayi*, for instance, the plaintiffs alleged they were
11 entitled to injunctive relief to ensure they would not be deceived by the defendant’s
12 allegedly false advertising in the future and that, because damages could not repair future
13 harm, their legal remedies were inadequate. 2021 WL 2864481, at *8. The court ruled
14 that those allegations were too speculative, reasoning that a plaintiff who argues that he
15 or she is entitled to injunctive relief must demonstrate a “*current* desire to purchase” the
16 defendant’s products or a definite “plan to do so in the future.” *Id.* (emphasis added).
17 Other courts have held similarly. *E.g., Ibarra*, 660 F. Supp. 3d at 921 (plaintiff’s
18 assertion that he was “genuinely interested in using the product as directed and obtaining
19 the promised results” did not suffice to convey standing because it was not a “plausible
20 allegation[]” of a “threat of future harm”); *Broomfield v. Craft Brew Alliance, Inc.*, 2017
21 WL 5665654, at *4 (N.D. Cal. Nov. 27, 2017) (plaintiffs did not sufficiently allege
22 standing to seek injunction because they did not assert that they had a “current desire to
23 purchase” the defendant’s product). Plaintiffs have made no such allegations here.

24 The Court lacks jurisdiction over Plaintiffs’ claims for equitable relief, and those
25 claims must be dismissed. *Sonner*, 971 F.3d at 834. Because Plaintiffs “failed to cure
26 the deficiency identified” in JCPenney’s prior motion to dismiss, the Court should not
27 grant Plaintiffs additional leave to amend. *Williams*, 2020 WL 6743911, at *10.

C. The Court should dismiss Plaintiffs' UCL and FAL claims.

The UCL and FAL “provide for only equitable relief,” and there is “no right to equitable relief or an equitable remedy when there is an adequate remedy at law.” *Robinson v. J.M. Smucker Co.*, 2019 WL 2029069, at *6 (N.D. Cal. May 8, 2019) (quotation omitted). Thus, where a plaintiff has an adequate remedy at law, a court necessarily lacks jurisdiction over the plaintiff’s UCL and FAL claims. *Id.* Courts routinely dismiss UCL and FAL claims where the plaintiff does not plausibly allege that he or she lacked an adequate remedy at law. *E.g.*, *Williams*, 2020 WL 6743911, at *10; *Ibarra*, 660 F. Supp. 3d at 923. Plaintiffs have not plausibly alleged that they lack an adequate legal remedy here, the Court should dismiss their UCL and FAL claims without leave to amend. *See Robinson*, 2019 WL 2029069, at *6.

CONCLUSION

Plaintiffs’ amendments to the complaint have not remedied the deficiencies the Court previously identified. Plaintiffs have not plausibly alleged a claim for unjust enrichment because they do not plead that their sales contracts with JCPenney were unenforceable, and they have not plausibly alleged that they are entitled to equitable relief under the UCL, FAL, or CLRA because they have adequate legal remedies. Accordingly, the Court should dismiss Plaintiffs’ claims for unjust enrichment; violation of the UCL and FAL; and violation of the CLRA, to the extent Plaintiffs seek equitable relief; as well as their claims for equitable relief. This time, the Court should dismiss these claims without leave to amend.

1 Dated: November 17, 2025 Respectfully Submitted,

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3 GIBSON, DUNN & CRUTCHER LLP

4 By: /s/ Christopher Chorba
5 Christopher Chorba

6 *Counsel for Defendant Penney OpCo LLC*
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CERTIFICATE OF COMPLIANCE

The undersigned counsel of record for Defendant Penney Opco LLC certifies that this brief contains 4,047 words, which complies with the word limit of L.R. 11-6.1, and fewer than 25 pages, which complies with the page limit in Section G(4) of this Court's Civil Standing Order.

Dated: November 17, 2025

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Christopher Chorba
Christopher Chorba

Counsel for Defendant Penney OpCo LLC